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AB-2041 Political Reform Act of 1974: campaign funds: security expenses. (2023-2024)

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Assembly Bill No. 2041

CHAPTER 372

An act to amend Section 89519 of, and to repeal and add Section 89517.5 of, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2041, Bonta. Political Reform Act of 1974: campaign funds: security expenses.

The Political Reform Act of 1974 regulates the use of campaign funds held by candidates for elective office, elected officers, and campaign committees. The act authorizes a candidate or elected officer to use campaign funds to pay or reimburse the state for the costs of installing and monitoring a home or office electronic security system if specified conditions are met. These conditions include that the candidate or elected officer has received threats to physical safety that have been verified by law enforcement and that no more than \$5,000 in campaign funds be used for this purpose.

This bill would eliminate those conditions. The bill would instead authorize a candidate or elected officer to use campaign funds to pay or reimburse the state for the reasonable costs of installing and monitoring a home or office electronic security system or for another tangible item related to security, and for the reasonable costs of providing personal security to a candidate, elected officer, or the immediate family or staff of a candidate or elected officer, provided that the threat or potential threat to safety arises from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer or from staff's position as staff of the candidate or elected officer. The bill would permit a maximum of \$10,000 of campaign funds to be expended for these purposes by a candidate or elected officer during their lifetime. The bill would not authorize campaign funds to be used to pay, or reimburse the state, for firearms. The bill would require the return of the security system or other item to the committee that paid for the security system or other item or reimbursement by the candidate, elected officer, immediate family, or staff, to the campaign fund account of the committee that paid for the security system or other item, and reporting of the reimbursement or expenditure on the candidate's or elected officer's campaign statement, as specified. The bill would require the candidate or elected officer to maintain detailed accounts, records, bills, and receipts relating to an expenditure or reimbursement for security, as specified. The bill would also require a candidate or elected officer to submit a form to the Fair Political Practices Commission that documents, under penalty of perjury, the threat or potential threat that necessitated the expenditure of campaign funds for security purposes.

By requiring the submission of a form under the penalty of perjury if campaign funds are used in the above manner, the bill creates a new crime and therefore establishes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house of the Legislature and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 89517.5 of the Government Code is repealed.

SEC. 2. Section 89517.5 is added to the Government Code, to read:

89517.5. (a) (1) For purposes of this section, "security expenses" include all of the following:

(A) The reasonable costs of installing and monitoring a home or office electronic security for a candidate, elected officer, or the immediate family or staff of a candidate or elected officer.

(B) The reasonable costs of providing personal security to a candidate, elected officer, or the immediate family or staff of a candidate or elected officer.

(C) Any other tangible item related to security for a candidate, elected officer, or the immediate family or staff of a candidate or elected officer.

(2) "Security expenses" do not include either of the following:

(A) Payments to a relative, within the third degree of consanguinity, of a candidate or elected officer.

(B) Payments for a firearm.

(b) (1) Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for security expenses to protect a candidate, an elected officer, or the immediate family or staff of a candidate or elected officer, provided that the threat or potential threat to safety arises from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer or from staff's position as staff of the candidate or elected officer.

(2) Expenditures of campaign funds pursuant to this section shall be limited to a lifetime maximum of ten thousand dollars (\$10,000) for a person who is a candidate or elected officer. This lifetime maximum shall apply regardless of whether the person is a candidate or an elected officer for multiple offices.

(c) (1) If a committee uses campaign funds to pay, or reimburse the state, for the costs of installing a home or office electronic security system or for any other tangible item related to security, either the security system or other item shall be returned to the committee or reimbursement for the security system or other item shall be made to the campaign fund account of the committee that paid for the security system or other item, pursuant to the requirements of paragraphs (2) and (3).

(2) (A) Except as provided in subparagraph (B), return or reimbursement is due within one year of when the elected officer leaves the office for which the security system or other tangible item related to security was purchased or when the candidate is no longer a candidate for the office for which the security system or other item was purchased, or, if applicable, upon sale of the property on which the security system is installed, whichever occurs sooner.

(B) If there is a continuing threat to the physical safety of the candidate or elected officer, the threat arises from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer, and the threat has been reported to and verified by an appropriate law enforcement agency, return or reimbursement is due within one year of when the threat verified by the law enforcement agency ceases, or, if applicable, upon sale of the property on which the security system is installed, whichever occurs sooner.

(3) The amount of the reimbursement shall be the fair market value of the security system or other tangible item related to security at the time that reimbursement is paid or due pursuant to paragraph (2), whichever occurs sooner. For a security system installed at the home or office of, or for an item purchased for, a candidate or elected officer, the candidate or elected officer shall pay the reimbursement. For a security system installed at the home or office of, or for an item purchased for, immediate family or staff, either the candidate or elected officer, or the immediate family or staff, shall pay the reimbursement.

(d) The immediate family or staff of the candidate or elected officer shall not be personally liable for reimbursement for expenditures for security expenses pursuant to this section.

(e) (1) The candidate or elected officer shall report an expenditure pursuant to subdivision (b) and a reimbursement pursuant to subdivision (c) on the candidate's or elected officer's campaign statement filed pursuant to Article 2 (commencing with Section 84200) of Chapter 4.

(2) With each report described in paragraph (1), the candidate or elected officer shall also submit a form to the Commission, in a manner prescribed by the Commission and signed under penalty of perjury, that describes and verifies the threat or potential threat to the candidate or elected officer, or to their immediate family or staff, that arose from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer and that necessitated the expenditure or reimbursement.

(3) As part of the recordkeeping requirements in Section 84104, the candidate or elected officer shall maintain detailed accounts, records, bills, and receipts relating to an expenditure or reimbursement described in paragraph (1), including records providing evidence of the threat or potential threat to safety that gave rise to the need for the expenditure.

SEC. 3. Section 89519 of the Government Code is amended to read:

89519. (a) Upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100).

(b) Surplus campaign funds shall be used only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(3) Donations to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of the former candidate's or elected officer's immediate family, or the former candidate's or elected officer's campaign treasurer.

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

(5) Contributions to support or oppose a candidate for federal office, a candidate for elective office in a state other than California, or a ballot measure.

(6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees and other costs for litigation that arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

(c) For purposes of this section, the payment of, or the reimbursement to the state for, security expenses, as defined in Section 89517.5, to protect a candidate, an elected officer, or the immediate family or staff of a candidate or elected officer, shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threat or potential threat to safety arises from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer. The candidate or elected officer shall report a payment or reimbursement for security expenses made pursuant to this section to the Commission.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To safeguard California's democracy and ensure all eligible Californians can run for office without fear for their safety, the safety of their family, or the safety of their staff, it is necessary that this act take effect immediately.